

WC 04-173

NOT FOR COPIY ORIGINAL

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

Approved by OMB
3060-0589
Page 1 of 1

(1) LOCKBOX # 358145		SPECIAL USE ONLY	
		FCC USE ONLY	
SECTION A - PAYER INFORMATION			
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) Matrix Telecom, Inc		(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$860.00	
(4) STREET ADDRESS LINE NO. 1 2912 Lakeside Drive			
(5) STREET ADDRESS LINE NO. 2			
(6) CITY Oklahoma City		(7) STATE OK	(8) ZIP CODE 73120
(9) DAYTIME TELEPHONE NUMBER (include area code) (405) 755-8177		(10) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(11) PAYER (FRN) 0004296596		(12) FCC USE ONLY	
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE. IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(13) APPLICANT NAME			
(14) STREET ADDRESS LINE NO. 1			
(15) STREET ADDRESS LINE NO. 2			
(16) CITY		(17) STATE	(18) ZIP CODE
(19) DAYTIME TELEPHONE NUMBER (include area code)		(20) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(21) APPLICANT (FRN)		(22) FCC USE ONLY	
COMPLETE SECTION C FOR EACH SERVICE. IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(23A) CALL SIGN OTHER ID	(24A) PAYMENT TYPE CODE CUT	(25A) QUANTITY 1	
(26A) FEE DUE FOR (PTC)	(27A) TOTAL FEE \$860.00	FCC USE ONLY	
(28A) FCC CODE 1	(29A) FCC CODE 2		
(23B) CALL SIGN OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY	
(28B) FCC CODE 1	(29B) FCC CODE 2		
SECTION D - CERTIFICATION			
CERTIFICATION STATEMENT I, <u>Gregory E. Hunkle</u> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.			
SIGNATURE <u>Gregory E. Hunkle</u>		DATE <u>4/28/04</u>	
SECTION E - CREDIT CARD PAYMENT INFORMATION			
MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____			
ACCOUNT NUMBER _____		EXPIRATION DATE _____	
I hereby authorize the FCC to charge my credit card for the service(s) authorization herein described.			
SIGNATURE _____		DATE _____	

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

FEBRUARY 2003 (REVISED)

LAW OFFICES OF THOMAS K. CROWE, P.C.

1250 24th STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20037

TELEPHONE (202) 263-3460
FAX (202) 263-3641
E-MAIL firm@tkcrowe.com

April 28, 2004

BY HAND

Federal Communications Commission
Wireline Competition Bureau – CPD – 214 Appls.
P O Box 358145
Pittsburgh, PA 15251-5145

Re Application for Transfer of Control of Assets

Dear Sir or Madam

Please find enclosed six (6) copies of the Application for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Transfer Control of Assets of Authorized International and Domestic Carrier filed on behalf of Matrix Telecom, Inc. (“Matrix”), requesting authority to transfer control of certain assets of International Exchange Communications, Inc (“IECom”) to Matrix. This Application was previously filed on March 3, 2004 with the FCC’s International Bureau. Also enclosed is an amendment to the Application containing certain information regarding IECom as requested by International Bureau staff.

Also enclosed are FCC Form 159 and a check in the amount of \$860.00 payable to the “Federal Communications Commission” to cover the requisite filing fee. Please file-stamp and return the extra copy of this filing in the self addressed, stamped envelope enclosed for this purpose.

Questions regarding this filing should be directed to the undersigned.

Sincerely,



Thomas K. Crowe
Gregory E. Kunkle,
Counsel for Matrix Telecom, Inc.

Enclosures

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
MATRIX TELECOM, INC.)	
)	
Transferee,)	
)	
INTERNATIONAL EXCHANGE COMMUNICATIONS, INC.,)	File No _____
)	
Transferor,)	
)	
Application for Authority Pursuant to)	
Section 214 of the Communications Act)	
of 1934, as amended, to Transfer Control of)	
Assets of Authorized International and)	
Domestic Carrier)	

**APPLICATION FOR CONSENT TO TRANSFER CONTROL
OF ASSETS OF INTERNATIONAL AND DOMESTIC CARRIER**

Pursuant to Section 214 of the Communications Act of 1934, as amended, ("Communications Act"), 47 U.S.C. § 214 (2003), and Sections 63.03 and 63.18 of the Commission's Rules, 47 C.F.R. §§ 63.03, 63.18 (2003), Matrix Telecom, Inc., ("Matrix" or "Applicant") hereby requests authority to effectuate the transfer of control of certain assets of International Exchange Communications, Inc. ("IECom"), to Matrix. IECom and Matrix are both non-dominant carriers authorized by the Commission to provide international and domestic telecommunications services. By this Application, Applicant seeks Commission approval of the proposed transfer of the assets of IECom to Matrix, and seeks streamlined processing of this application.¹

As fully described herein, this transfer is being made pursuant to an order of the United States Bankruptcy Court of the Northern District of California, San Francisco Division

¹ A Domestic Supplement, containing the information required by 47 C.F.R. § 63.04 (2003) is attached hereto as Exhibit A.

Approval of the transfer will permit Matrix to realize significant economic and marketing efficiencies which will enhance its ability to continue providing high quality, low cost telecommunications services and to compete more effectively in the international and domestic telecommunications marketplace. Significantly, transfer of the assets of IECOM, which includes the IECOM customer base, to Matrix, will also ensure uninterrupted service for IECOM's current customers. Accordingly, grant of this Application will benefit the public interest.

In support of this Application, Applicant submits the following information:

I. THE PARTIES

(a) Matrix Telecom, Inc.

Matrix, a Texas corporation, has global authority to provide resold international telecommunications services.² Matrix is considered a non-dominant carrier under the Commission's Rules. The company has no affiliation, within the meaning of Section 63.09(e) of the Commission's Rules, 47 C.F.R. § 63.09(e) (2003), with a dominant U.S. or foreign facilities-based carrier.

Information concerning Matrix's legal, technical, and financial qualifications to provide service was submitted with the company's application for Section 214 authorization and is, therefore, already a matter of record before the Commission.

(b) International Exchange Communications, Inc.

IECOM, a Delaware corporation, has global authority to provide resold international telecommunications services.³ IECOM is considered a non-dominant carrier under the Commission's Rules. The company has no affiliation, within the meaning of Section 63.09(e) of the Commission's Rules, 47 C.F.R. § 63.09(e) (2003), with a dominant U.S. or foreign facilities-

² Matrix Telecom, Inc. was authorized by the Commission to provide international services under its former name, Matrix Telecom, by *In the Matter of Matrix Telecom Application for Authority to Operate as an International Resale Carrier Order: Authorization and Certificate*, File No. ITC 91-176, DA 91-1192, 6 FCC Red. 5571 (1991).

³ IECOM was authorized by the Commission to provide international facilities-based services, and international switched resale services, on a global basis by *Overseas Common Carrier Section 214 Applications and Section 310(B)(4) Actions Taken: Public Notice*, 13 FCC Red. 22518 (1996), File No. ITC-2141998091500644, (October 30, 1998).

based carrier

Information concerning IECOM's legal, technical, and financial qualifications to provide service was submitted with the company's application for Section 214 authorization and is, therefore, already a matter of record before the Commission.

II. DESCRIPTION OF TRANSACTION

On January 4, 2001, IECOM filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code. In order to resolve a dispute arising from a business relationship between Matrix and IECOM, the parties entered into a settlement agreement, dated August 12, 2002, whereby Matrix agreed to purchase certain assets from IECOM, including its retail customer base consisting of 1-, calling card, and toll-free customers.⁴ As part of the bankruptcy proceeding, the Honorable Judge Dennis J. Montali of the United States Bankruptcy Court for the Northern District of California, San Francisco Division, issued an order, directing the parties to consummate the asset transfer pursuant to the settlement agreement as soon as regulatory approval could be obtained.⁵

Since the settlement agreement between IECOM and Matrix requires the transfer to be completed "without delay" and since IECOM's ability to continue operating is in question, as evidenced by its current bankruptcy, Applicant requests expedited Commission approval for authority to effectuate the acquisition, thereby allowing for the transfer of control of the assets from IECOM to Matrix as soon as possible. Matrix has scheduled a tentative customer transfer date of April 15, 2004.

III. PUBLIC INTEREST

Consummation of the proposed transaction will serve the public interest in promoting competition in the international and domestic telecommunications market by providing Matrix the opportunity to strengthen its competitive position by combining IECOM's resources with

⁴ See *Order Approving Settlement Agreement with Matrix Telecom, Inc. and Sale of Assets Pursuant Thereto*, at Exhibit I (Attached hereto as Exhibit B).

⁵ See Exhibit B at ¶ 8.

Matrix's global resale services, products and expertise. Matrix's operations will more readily increase in size and profitability, due to enhanced economies of scale. Accordingly, the proposed acquisition will benefit consumers through improved services and lower rates, thereby promoting competition in the international telecommunications market. The Commission recognizes that the international market for switched voice services is becoming increasingly competitive in nature and that such competition benefits consumers.⁶

Additionally, approval of the transfer will ensure continuous, uninterrupted service to the customers of IECOM, who might otherwise have their service disrupted due to circumstances stemming from IECOM's current bankruptcy. The Commission has recognized that reducing the harm to consumers that results from service discontinuance "is an important aspect of the Commission's general obligation under the Communications Act to protect and promote the public interest."⁷

Given the Commission's desire to both foster competition in the international and domestic switched services markets, as well as ensure service continuity, grant of the proposed transaction is in the public interest.

IV. SPECIFIC PART 63 INFORMATION

As required by Section 63.18 of the Commission's Rules, Applicant submits the following information:

(a) Names, addresses and telephone numbers of Parties:

Transferee

Matrix Telecom, Inc
300 N. Meridian
Oklahoma City, OK 73107
(405) 951-9300 Telephone

⁶ See *In Re Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Market Entry and Regulation of Foreign-Affiliated Entities: Report and Order and Order on Reconsideration*, 12 FCC Rcd 23891, 23891 (1997).

⁷ *In the Matter of Rhythms Links Inc. Emergency Application to Discontinue Domestic Telecommunications Services*, Order 16 FCC 16372, 16374 (2001).

Transferor

International Exchange Communications, Inc
500 Airport Blvd., Suite 340
Burlingame, CA 94010
(650) 347-4973 Telephone

(b) The Government, State, or Territory under the laws of which each of the Parties is organized:

Matrix is a corporation organized under the laws of the State of Texas IECOM is a corporation organized under the laws of the State of Delaware

(c) Correspondence concerning this Application should be addressed to:

Thomas K. Crowe
Gregory E. Kunkle.
Law Offices of Thomas K. Crowe, P.C.
1250 24th Street, N.W., Suite 300
Washington, D.C. 20037
(202) 263-3640 Telephone

with a copy to

Judith A. Riley
Telecom Professionals, Inc.
2912 Lakeside Drive Suite 100
Oklahoma City, OK 73120
(405) 755-8177 (x1) Telephone

(d) Statement as to previous Section 214 authorization:

As discussed above, Matrix previously received authority from the Commission under Section 214 of the Communications Act to provide global resale services⁸ IECOM previously received authority from the Commission under Section 214 of the Communications Act to provide global facilities-based and resale services⁹

(e) This Application requests transfer of control of the Assets of IECOM from

⁸ See *supra* at 2 n.2

⁹ See *supra* at 2 n.3

IECom to Matrix.

(f) Not applicable.

(g) Not applicable.

(h) The following corporation holds a ten percent (10%) or greater ownership interest in Matrix:

<u>Name/Address</u>	<u>% Held</u>	<u>Citizenship</u>	<u>Principal Business</u>
Matrix Acquisition Holdings Corp 2049 Century Park East Los Angeles, CA 90067	100%	USA	Holding corporation

The following corporation holds a ten percent (10%) or greater ownership interest in Matrix Acquisition Holdings Corp.:

<u>Name Address</u>	<u>% Held</u>	<u>Citizenship</u>	<u>Principal Business</u>
Platinum Equity, LLC 2049 Century Park East Suite 2700 Los Angeles, CA 90067	100%	USA	Holding corporation

The following individual holds a ten percent (10%) or greater ownership interest in Platinum Equity, LLC:

<u>Name Address</u>	<u>% Held</u>	<u>Citizenship</u>	<u>Principal Business</u>
Tom T. Gores 2049 Century Park East Suite 2700 Los Angeles CA 90067	100%	USA	Venture capital

(i) Certification by Matrix of non-affiliation with a foreign carrier:

See Exhibit C

(j) Certification that Matrix does not intend to provide international telecommunications services to a destination country for which any of Sections 63.18(j)(1)-(4) of the Commission's Rules, 47 C.F.R. § 63.18(j)(1)-(4) (2003) is true:

See Exhibit C

(k) Not applicable.

(l) Not applicable.

(m) Not applicable.

(n) **Certification that Matrix has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future:**

See Exhibit C

(o) **Certifications by Parties that no party to this Application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853(a):**

See Exhibit C

(p) **Streamlined processing.**

Applicant requests streamlined processing of this application pursuant to Section 63.12 of the Commission's Rules, 47 C.F.R. § 63.12 (2003)

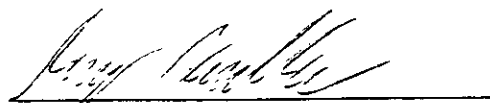
V. CONCLUSION

For the reasons stated herein, Matrix respectfully submits that the public interest, convenience and necessity would be furthered by grant of this application.

Respectfully submitted,

MATRIX TELECOM, INC.

By



Thomas K. Crowe
Gregory E. Kunkle.
LAW OFFICES OF THOMAS K. CROWE,
P C
1250 24th Street, N W , Suite 300
Washington, D C 20037
(202) 263-3640 Telephone

COUNSEL FOR MATRIX
TELECOM, INC

March 3, 2004

EXHIBIT A

DOMESTIC SUPPLEMENT TO
APPLICATION FOR CONSENT TO TRANSFER CONTROL
OF ASSETS OF INTERNATIONAL AND DOMESTIC CARRIER

Pursuant to 47 C F R. § 63.04 (b) (2003), the following information is supplied in connection with the attached Application For Consent To Transfer Control Of Assets Of International And Domestic Carrier and, together with the information contained therein, is intended to fulfill the requirements for application to transfer of control of assets of a domestic carrier

- (1) **The name, address, and telephone number of each applicant:**

See Application For Consent To Transfer Control Of Assets Of International And Domestic Carrier, p. 4-5

- (2) **The government, state, or territory under the laws of which each corporate or partnership applicant is organized:**

See Application For Consent To Transfer Control Of Assets Of International And Domestic Carrier, p. 5

- (3) **The name, title, post office address, and telephone number of the officer or contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed:**

See Application For Consent To Transfer Control Of Assets Of International And Domestic Carrier, p. 5

- (4) **The name, address, citizenship and principal business of any person or entity that directly or indirectly owns at least ten (10) percent of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest one (1) percent):**

See Application For Consent To Transfer Control Of Assets Of International And Domestic Carrier, p. 6

- (5) **Certification pursuant to 47 C.F.R. sections 1.2001 through 1.2003 that no party to the application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853:**

See Exhibit C to the Application For Consent To Transfer Control Of Assets Of International And Domestic Carrier

- (6) **Description of the transaction:**

On January 4, 2001, International Exchange Communications, Inc. ("IECom") filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code. In order to resolve a dispute arising from a business relationship between Matrix Telecom, Inc. ("Matrix" or "Applicant") Matrix and IECom, the parties entered into a settlement agreement, dated August 12, 2002, whereby Matrix agreed to purchase certain assets from IECom, including its retail customer base consisting of 1-, calling card, and toll-free customers. As part of the bankruptcy proceeding, the Honorable Judge Dennis J. Montali of the United States Bankruptcy Court for the Northern District of California, San Francisco Division, issued an order, directing the parties to consummate the asset transfer pursuant to the settlement agreement as soon as regulatory approval could be obtained, a copy of which is attached as Exhibit B to the Application For Consent To Transfer Control Of Assets Of International And Domestic Carrier.

Since the settlement agreement between IECom and Matrix requires the transfer to be completed "without delay", and since IECom's ability to continue operating is in question, as evidenced by its current bankruptcy, Applicant requests expedited Commission approval for authority to effectuate the acquisition, thereby allowing for the transfer of control of the assets from IECom to Matrix as soon as possible.

- (7) **A description of the geographic areas in which the transferor and transferee (and their affiliates) offer domestic telecommunications services, and what services are provided in each area:**

Matrix and IECOM both offer 1-, calling card, and toll free service in each of the 48 contiguous states

- (8) A statement as to how the application fits into one or more of the presumptive streamlined categories in section 63.03 or why it is otherwise appropriate for streamlined treatment:**

Since Matrix, as transferee, ultimately stands to gain less than a 10 percent market share in the interstate, interexchange market, provides services exclusively in geographic areas served by a dominant local exchange carrier that is not a party to this transaction and neither Matrix nor IECOM is dominant with respect to any service, this application is appropriate for streamlined treatment pursuant to 47 C.F.R. § 63.03 (b)(2)

- (9) Identification of all other Commission applications related to the same transaction:**

The aforementioned Application For Consent To Transfer Control Of Assets Of International And Domestic Carrier is being submitted herewith

- (10) A statement of whether the applicants are requesting special consideration because either party to the transaction is facing imminent business failure:**

Due to IECOM's current Chapter 11 bankruptcy, the parties request expedited processing of this application

- (11) Identification of any separately filed waiver requests being sought in conjunction with the transaction:**

N/A

- (12) A statement showing how grant of the application will serve the public interest, convenience and necessity, including any additional information that may be necessary to show the effect of the proposed transaction on competition in domestic markets:**

Consummation of the proposed transaction will serve the public interest in promoting competition in the international and domestic telecommunications market by providing Matrix the opportunity to strengthen its competitive position by combining IECOM's resources with Matrix's global resale services, products and expertise. Matrix's operations will more readily increase in size and profitability, due to enhanced economies of scale. Accordingly, the proposed acquisition will benefit consumers through improved services and lower rates, thereby promoting competition in the international telecommunications market. The Commission recognizes that the international market for switched voice services is becoming increasingly competitive in nature and that such competition benefits consumers.¹

Additionally, approval of the transfer will ensure continuous, uninterrupted service to the customers of IECOM, who might otherwise have their service disrupted due to circumstances stemming from IECOM's current bankruptcy. The Commission has recognized that reducing the harm to consumers that results from service discontinuance "is an important aspect of the Commission's general obligation under the Communications Act to protect and promote the public interest."²

Given the Commission's desire to both foster competition in the international and domestic switched services market, as well as ensure service continuity, grant of the proposed transaction is in the public interest.

¹ See *In Re Rules and Policies on Foreign Participation in the U.S. Telecommunications Market: Market Entry and Regulation of Foreign-Affiliated Entities, Report and Order and Order on Reconsideration*, 12 FCC Rcd 23891, 23891 (1997).

² *In the Matter of Rhythms Links Inc. Emergency Application to Discontinue Domestic Telecommunications Services*, Order, 16 FCC 16372, 16374 (2001).

EXHIBIT B

ORIGINAL

FILED

00:00:20 PM 4.55

U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CAL.
SAN FRANCISCO, CA.

1 LEE R. BOGDANOFF (SBN 119542)
 2 MARTIN R. BARASH (SBN 162314)
 3 KLEE. TUCHIN, BOGDANOFF & STERN LLP
 1880 Century Park East, Suite 200
 4 Los Angeles, California 90067-1698
 Telephone (310) 407-4000
 Facsimile (310) 407-9090

5 Bankruptcy Counsel For Pacific Gateway Exchange, Inc., et al,
 6 Debtors and Debtors In Possession

7 Debtor's Mailing Address:
 500 Airport Drive, Suite 340
 8 Burlingame, California 94010

10 UNITED STATES BANKRUPTCY COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

13 In re

14 PACIFIC GATEWAY EXCHANGE,
 15 INC., a Delaware corporation (Tax ID
 No. 943134065), INTERNATIONAL
 16 EXCHANGE COMMUNICATIONS,
 INC., a Delaware corporation (Tax ID
 17 No. 943292374), ONYX NETWORKS,
 INC., a Delaware corporation, f/k/a/
 18 PGExpress, Inc. (Tax ID 943335904)
 WORLD PATHWAYS INC., a
 19 Delaware corporation (Tax ID No.
 943282029); WORLDLINK, INC., a
 20 Delaware corporation (Tax ID No.
 943286651), and GLOBAL TIME INC.,
 21 a Delaware corporation (Tax ID No.
 943316865),
 22

) Case Nos SF 00-33019 DM, SF 01-30027
) DM, SF 01-30014 DM, SF 01-30016 DM, SF
) 01-30017 DM, SF 01-30015 DM (Jointly
) Administered under Case No SF 00-33019
) DM)

) Chapter 11

) ORDER APPROVING SETTLEMENT
) AGREEMENT WITH MATRIX
) TELECOM, INC. AND SALE OF
) ASSETS PURSUANT THERETO
) [REVISED VERSION]

23 Debtors
 24
 25
 26
 27
 28

767

1 On October 17, 2002, International Exchange Communications, Inc. ("IECom")
2 served, and on October 21, 2002 filed, its "Notice Of Motion And Motion By International
3 Exchange Communications, Inc For Approval Of Settlement Agreement With Matrix
4 Telecom, Inc And Sale of Assets Pursuant Thereto" (the "Motion"). IECom requested
5 pursuant to the Motion an Order approving the "Settlement Agreement"¹ attached thereto as
6 Exhibit "1" (and attached hereto as Exhibit "1") and the transactions contemplated
7 thereunder, including the sale of substantially all of IECom's remaining assets to Matrix
8 Telecom, Inc. ("Matrix") free and clear of liens, claims, interests, and encumbrances as
9 specified therein. The Court has reviewed and considered the Motion, the accompanying
10 Declaration of David M. Davis, the Declaration of Non-Opposition Of Grace E. Oh, the
11 Declarations of Service filed in connection with the foregoing, and the record in these cases
12 Based upon that review and consideration, the Court finds that notice of the Motion was
13 reasonable and appropriate under the circumstances, that no other or further notice need be
14 given, that no opposition has filed to the Motion, timely or otherwise, and that good cause
15 exists to make such additional findings and grant such relief requested as is set forth in this
16 Order

17 **NOW, THEREFORE, IT IS HEREBY FOUND AND DETERMINED THAT:**²

18 A This Court has jurisdiction to hear and determine the Motion pursuant to 28
19 U.S.C. §§ 157 and 1334

20 B Determination of the Motion is a core proceeding under 28 U.S.C.
21 §§ 157(b)(2)(A)(N), and (O). Venue of these chapter 11 cases and the Motion in this district
22 is proper under 28 U.S.C. §§ 1408 and 1409. Statutory authority for the relief requested
23 herein exists under Bankruptcy Code sections 105 and 363 and Bankruptcy Rules 2002

24
25 ¹ To the extent not otherwise defined herein, capitalized terms shall have the meanings ascribed to them in
26 the Settlement Agreement

27 ² Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as
28 findings of fact when appropriate. See Bankruptcy Rule 7052

1 6004 and 9019

2 C As evidenced by the declarations of service previously filed with the Court:
3 (1) proper, timely, adequate, and sufficient notice of the Motion and the transactions
4 contemplated therein, has been provided in accordance with the requirements of section
5 102(1) the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 9019; (2) such notice
6 was good and sufficient, and appropriate under the particular circumstances; and (3) no other
7 or further notice of the Motion, any Sale hearing or entry of this Settlement and Sale Order is
8 required

9 D All interested persons and entities set forth in the Declarations of Service filed
10 in connection with the Motion, including (i) the Office of the United States Trustee for the
11 Northern District of California, (ii) counsel for the Settling Parties, (iii) counsel for any
12 statutory committees appointed in these cases, and (vi) all entities required to be served
13 under the "Order Limiting Notice and Establishing Notice Procedures" have been afforded a
14 reasonable opportunity, under the facts and circumstances of the present case, to object to or
15 be heard regarding the relief requested in the Motion

16 E This Court previously has authorized under Bankruptcy Code section 363(f)
17 the sale of any and all of the assets of IECOM and its chapter 11 affiliates (collectively, the
18 "Debtors") free and clear of liens, claims and encumbrances pursuant to the terms of the
19 "Order Granting Omnibus Motion To Establish Procedures For The Expedited Sale Of
20 Assets And Authority To Sell Assts Free And Clear Of Liens Claims and Encumbrances"
21 ("Free and Clear Order")

22 F The Debtors have full authority to execute the Settlement Agreement and all
23 other documents contemplated thereby, and the transactions contemplated thereby are duly
24 and validly authorized.

25 G The Settlement Agreement reflects the exercise of the Debtors' sound business
26 judgment and a proper exercise of the Debtors' fiduciary duties.

27 H Approval at this time of the Settlement Agreement, and the transactions
28 contemplated thereby, is in the best interests of the Debtors, their creditors, their estates, and

1 other parties in interest.

2 I. The terms and conditions of the Settlement Agreement are fair and reasonable

3 J. The Debtors have demonstrated both (i) good, sufficient, and sound business
4 purpose and justification and (ii) compelling circumstances for consummating the sale of the
5 Assets (the "Sale") pursuant to the Settlement Agreement and section 363 of the Bankruptcy
6 Code, in that, among other things, a prompt sale of the Assets will maximize the value of the
7 estate and avoid the need for costly litigation.

8 K. The Settlement Agreement was negotiated, proposed, and entered into by the
9 parties without collusion, in good faith, and from arms-length bargaining positions. Matrix
10 is a buyer in good faith of the Assets under section 363(m) of the Bankruptcy Code and, as
11 such, is entitled to the protections afforded thereby. None of the parties to the Settlement
12 Agreement has engaged in any conduct that would cause or permit the Settlement Agreement
13 and the transactions contemplated thereby to be avoided under section 363(n) of the
14 Bankruptcy Code.

15 **NOW THEREFORE, IT IS HEREBY ORDERED THAT:**

16 1. The Motion be, and it hereby is, granted in its entirety.

17 2. The Settlement Agreement is incorporated herein by this reference and
18 approved. The terms and conditions of the Settlement Agreement and the transactions
19 contemplated by the Settlement Agreement are hereby approved in all respects, including the
20 the Sale thereunder pursuant to section 363(b) of the Bankruptcy Code.

21 3. All Settling Parties shall execute and deliver any other documents that are
22 reasonably necessary to effectuate the sale of the Assets to Matrix hereunder.

23 4. The sale and transfer of the Assets to Matrix as provided for in the Settlement
24 Agreement is free and clear of any and all liens, claims, encumbrances and interests
25 ("Liens") of those lienholders identified in the Free and Clear Order ("Lienholders"),
26 pursuant to Bankruptcy Code section 363 and the terms of the Free and Clear Order. Any
27 Liens in the Assets shall attach to the proceeds of the sale, in the same order and priority as
28 such liens existed in such assets prior to such sale, and subject to any existing defenses or

1 grounds for avoidance thereto, provided, however, that pursuant to the terms of the Debtor In
2 Possession Credit Agreement ("DIP Agreement") between the Debtors' lenders ("Lenders")
3 and the Debtors, all funds generated from the Settlement Agreement (i.e., \$600,000) will be
4 remitted to the Lenders pursuant to and subject to the terms of the DIP Agreement

5 5 Except as expressly provided in the Settlement Agreement, each Lienholder
6 that holds or may hold a Lien against the Assets, or against the Debtors arising prior to the
7 Settlement Effective Date, or out of events occurring prior to the Settlement Effective Date,
8 is barred from asserting such Lien against Matrix, its successors or assigns, or the Assets

9 6 The terms and provisions of the Settlement Agreement and this Settlement and
10 Sale Order, shall be binding on the Debtors, their estates and creditors, Matrix, and its
11 respective affiliates, successors and assigns, and any affected third parties, and all persons
12 asserting a Claim against or interest in any of the Debtors' estates or any of the Assets

13 7 Except as expressly provided in the Settlement Agreement or this Settlement
14 and Sale Order, Matrix is not assuming any debts arising in any way in connection with any
15 acts of any of the Debtors, claims (as that term is defined in the Bankruptcy Code),
16 obligations, demands, guarantees, options, rights, contractual commitments, restrictions,
17 interests and matters of any kind and nature, arising prior to the Settlement Effective Date or
18 relating to acts occurring prior to the Settlement Effective Date, any debts, liabilities,
19 obligations, commitments, responsibilities or claims of any kind or nature whatsoever,
20 whether know or unknown, contingent or otherwise, existing as of the date hereof or
21 hereafter arising, of or against any of the Debtors, any affiliates of any of the Debtors, or any
22 other person by reason of the transfer of the Assets pursuant to the Settlement Agreement
23 and Settlement and Sale Order, under the laws of the United States, any state, territory or
24 possession thereof or the District of Columbia applicable to such transactions as the result of
25 consummation of the Sale transaction

26 8 Each entity that is presently, or on the Settlement Effective Date may be, in
27 possession of any of the Assets is directed to surrender possession of said Assets to Matrix
28 on, or as soon as possible after, the Settlement Effective Date. Subject to all of the terms and

1 conditions of the Settlement Agreement, including without limitation the continuing duties
2 of Matrix to indemnify and defend IECOM that are set forth in Paragraph 8(C) thereof,
3 Matrix will continue to manage the Assets under the MSA, as modified by the Settlement
4 Agreement, until such time as the necessary state and federal regulatory approvals for the
5 transfer of the Assets to Matrix have been obtained, at which time ownership of the Assets
6 will automatically be transferred to Matrix in accordance with the terms of this Order
7 Should any of such regulatory approvals be denied, IECOM shall cooperate with Matrix to
8 provide for an alternative disposition of the Assets for no further consideration other than
9 reimbursement by Matrix to IECOM of out-of-pocket costs incurred by IECOM in connection
10 with such alternate disposition. Notwithstanding any provision of the MSA, the Settlement
11 Agreement, or this Order, Matrix shall be liable for, shall pay and hereby indemnifies
12 IECOM for all costs arising from or relating to the management of the Assets pending
13 transfer to Matrix, or such alternate disposition.

14 9 The Settlement Agreement and any related documents or other instruments
15 may be modified, amended, or supplemented by the parties thereto in accordance with the
16 terms thereof without further order of the Court, provided that any such modification,
17 amendment or supplement is not material.

18 10 The transactions contemplated by the Settlement Agreement have been
19 bargained for and undertaken by the Debtors and Matrix at arms-length, without collusion,
20 and in good faith within the meaning of section 363(m) of the Bankruptcy Code, and the
21 Debtors and Matrix have not engaged in any conduct that would cause or permit the Sale to
22 be avoided.

23 11 Pursuant to section 363(m) of the Bankruptcy Code, if any or all of the
24 provisions of this Settlement and Sale Order are hereafter reversed, modified, or vacated by a
25 subsequent order of this Court or any other court, such reversal, modification, or vacatur
26 shall not affect the validity and enforceability of any obligation or right granted pursuant to
27 the terms of this Settlement and Sale Order, and notwithstanding any reversal, modification,
28 or vacatur of this Settlement and Sale Order, any actions taken by either the Debtors or

1 Matrix pursuant to the terms of this Settlement and Sale Order prior to the effective date of
2 any such reversal, modification, or vacatur shall be governed in all respects by the original
3 provisions of this Settlement and Sale Order and the Settlement Agreement, as the case may
4 be

5 12. This Court retains jurisdiction (i) to enforce and implement the terms and
6 provisions of the Settlement Agreement, all amendments thereto, any waivers and consents
7 thereunder, and any agreements executed in connection therewith, (ii) to compel the transfer
8 of the Assets to Matrix, (iii) to compel the payment of the \$600,000 by Matrix to IECOM,
9 (iv) to resolve any disputes, controversies, or claims arising out of or relating to the
10 Settlement Agreement, and (v) to interpret, implement, and enforce the provisions of this
11 Settlement and Sale Order

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13 DATED December 19, 2002

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HONORABLE DENNIS J. MONTALI
UNITED STATES BANKRUPTCY JUDGE


Presented by

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Martin R. Barash, a member of
Klee, Tuchin, Bogdanoff & Stern LLP
Bankruptcy Counsel to
Debtors and Debtors In Possession
Dated December 18, 2002

Approved by:

MATRIX TELECOM, INC.


By Dennis E. Smith, President
Dated December 13, 2002

1 Approved by:

2 INTERNATIONAL EXCHANGE COMMUNICATIONS, INC.

3 _____

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5 By Dave Davis, President

6 Dated December 17, 2002

7 Approved as to form and content

8 KIRKLAND & ELLIS

9 _____

10 _____

11 By Bennett L. Spiegel

12 Counsel to Matrix Telecom, Inc

13 Dated December ___, 2002

14 _____

15 Agreed and Approved by IECOM's Secured Lenders

16 O'MELVENY & MYERS

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18 _____

19 By Ben H. Logan

20 Counsel to Bank of America, N.A., as Agent

21 Dated December ___, 2002

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1 Approved by:

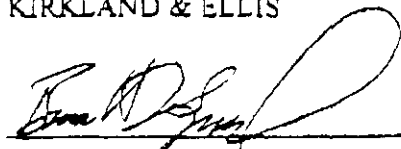
2 INTERNATIONAL EXCHANGE COMMUNICATIONS, INC.

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4
5 By Dave Davis, President

6 Dated: December __, 2002

7 Approved as to form and content

8 KIRKLAND & ELLIS

9
10 

11 By Bennett L. Spiegel

12 Counsel to Matrix Telecom, Inc

13 Dated December 13 2002

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15 Agreed and Approved by IECOM's Secured Lenders

16 O'MELVENY & MYERS

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18
19 By Ben H. Logan

20 Counsel to Bank of America, N.A., as Agent

21 Dated December __, 2002

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1 Approved by

2 INTERNATIONAL EXCHANGE COMMUNICATIONS, INC

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5 By Dave Davis, President

6 Dated December __, 2002

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13 Counsel to Matrix Telecom. Inc

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